

Assembly Bill No. 1350

CHAPTER 428

An act to amend Section 96.31 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 2, 2011. Filed with
Secretary of State October 2, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1350, Lara. Property taxation: override rates: validation by auditor.

Existing property tax law generally prohibits a local jurisdiction, in the 1985–86 fiscal year and each fiscal year thereafter, from imposing a property tax rate pursuant to a specified statutory provision in excess of the rate so imposed by that jurisdiction in specified fiscal years, unless it is imposed for specified purposes, including, among others, to make payments in support of certain pension programs.

This bill would, if a local jurisdiction increases or extends a property tax rate, on or after January 1, 2012, for the purpose specified above, require the county auditor to, prior to the increase or extension of the property tax rate, verify that the rate increased or extended by the jurisdiction does not exceed the maximum rate authorized by law. This bill would require the jurisdiction to provide the county auditor with any documentation that is necessary to assist the county auditor in making the verification, as provided, and to reimburse the county auditor for the actual and reasonable costs incurred by the county auditor in administering the verification. This bill would require the county auditor to reject the increase or extension of any property tax rate that exceeds the maximum rate authorized by law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 96.31 of the Revenue and Taxation Code is amended to read:

96.31. (a) For the 1985–86 fiscal year and each fiscal year thereafter, a jurisdiction shall not impose a property tax rate pursuant to subdivision (a) of Section 93, unless it is imposed for one or more of the following purposes:

(1) To make annual payments for the interest and principal on general obligation bonds approved by the voters before July 1, 1978, and on bonded indebtedness for the acquisition and improvement of real property approved by the voters by a two-thirds vote after June 4, 1986.

(2) To make payments to the State of California under contracts for the sale, delivery, or use of water entered into pursuant to California Water Resources Development Bond Act in Chapter 8 (commencing with Section 12930) of Part 6 of Division 6 of the Water Code or to make payments to the United States or another public agency under voter-approved contracts for the sale, delivery, or use of water or for the repayment of voter-approved obligations for the construction, maintenance, or operation of water conservation, treatment, or distribution facilities, provided that the indebtedness was approved by the voters before July 1, 1978.

(3) To make payments pursuant to lease-purchase programs approved by the voters before July 1, 1978, provided that the jurisdiction imposed the property tax rate in the 1982–83 fiscal year.

(4) To make payments in support of pension programs approved by the voters before July 1, 1978, provided that the local agency imposed the property tax rate in the 1982–83 or 1983–84 fiscal year.

(5) To make payments in support of paramedic, library, or zoo programs approved by the voters before July 1, 1978, provided that the jurisdiction imposed the property tax rate in the 1982–83 fiscal year.

(6) To make payments for the interest and principal on an indebtedness, pursuant to Section 5544.2 of the Public Resources Code, approved by the voters before July 1, 1978, provided that the local agency imposed the property tax rate in the 1982–83 fiscal year.

(b) In the 1985–86 fiscal year and any fiscal year thereafter, a jurisdiction shall not impose a property tax rate, pursuant to subdivision (a) of Section 93, in excess of the rate it imposed in the 1982–83 or 1983–84 fiscal year. Notwithstanding the limit imposed by this subdivision, a higher property tax rate may be imposed whenever necessary to make payments for any of the purposes specified in paragraphs (1), (2), and (3) of subdivision (a). However, no property tax rate increase in excess of the rate imposed in the 1984–85 fiscal year shall be imposed if the purpose of the rate increase is to fund a reduction in the rates charged for water at the time of the property tax rate increase.

(c) Notwithstanding subdivisions (a) and (b), a charter city may levy an ad valorem property tax rate to make payments in support of a retirement system for fire and police employees if all of the following criteria are met:

(1) The retirement system is part of the city's charter and was approved by the voters before July 1, 1978.

(2) The city did not levy a separate ad valorem property tax rate to support the retirement system in the 1983–84 fiscal year.

(3) The retirement system provides for a cost-of-living adjustment that is indexed to a consumer price index and does not limit the annual increases which may be paid to members after their retirement.

(4) The retirement system is not currently available to newly hired fire and police employees and will not be available in the future.

(5) Before January 1, 1985, the city unsuccessfully litigated a limit to the cost-of-living adjustment that may be paid to members of the retirement system after their retirement.

(6) After July 1, 1985, the city conducted an election and a question authorizing the levying of an ad valorem property tax for the purpose of making payments in support of the retirement system received the affirmative votes of at least 60 percent of those voting on that question.

The proceeds of an ad valorem property tax rate levied pursuant to this subdivision shall be used only to pay for the obligations of a retirement system described by this subdivision. The proceeds shall not be used to finance more than 75 percent of the annual obligations of this retirement system. A city shall not levy an ad valorem property tax pursuant to this subdivision after June 30, 2034.

(d) (1) Except as otherwise provided in paragraph (2), if a jurisdiction imposes a rate in excess of the maximum rate authorized by subdivision (a), (b), or (c), the amount of property tax allocated to the jurisdiction pursuant to this chapter shall be reduced by one dollar (\$1) for each one dollar (\$1) of property tax revenue attributable to the excess rate. Any property tax revenue that has been subtracted from a jurisdiction's allocation pursuant to this subdivision shall be allocated to elementary, high school, and unified school districts within the jurisdiction's jurisdiction in proportion to the average daily attendance of each district.

(2) With respect to the ad valorem property taxes collected pursuant to paragraph (4) of subdivision (a) in excess of the maximum rate authorized by subdivision (b) in the 2007–08, 2008–09, and 2009–10 fiscal years for the City of Bell, all of the following shall apply:

(A) (i) On or before December 31, 2010, the City of Bell shall pay to the County of Los Angeles an amount equal to the amount of ad valorem property tax collected pursuant to paragraph (4) of subdivision (a) in excess of the maximum rate authorized by subdivision (b) in the 2007–08, 2008–09, and 2009–10 fiscal years, including interest thereon calculated at the average rate earned by the City of Bell on its idle funds in the 2007–08, 2008–09, and 2009–10 fiscal years.

(ii) From the amounts paid to the County of Los Angeles as required by clause (i), the County of Los Angeles shall make a refund to any taxpayer who paid the ad valorem property tax collected as specified in clause (i), in a manner generally consistent with the County of Los Angeles tax refund practices.

(B) (i) If, by December 31, 2011, the County of Los Angeles is unable to locate a taxpayer who paid the ad valorem property tax collected as specified in clause (i) of subparagraph (A) in order to make a refund to the taxpayer, those amounts remaining from those amounts paid to the County of Los Angeles pursuant to subparagraph (A) shall be allocated to elementary, high school, and unified school districts as provided by paragraph (1).

(ii) The requirement of paragraph (1) shall apply only with respect to any amounts remaining after making refunds to taxpayers as provided by clause (i).

(C) The City of Bell shall reimburse the county auditor for the actual and reasonable costs incurred by the county to administer this subdivision, including applicable administrative overhead costs as permitted by federal Office of Management and Budget Circular A-87 standards.

(e) (1) Notwithstanding any other law, if a jurisdiction increases or extends, on or after January 1, 2012, a property tax rate as authorized by paragraph (4) of subdivision (a) or by subdivision (c), the county auditor shall, prior to the increase or extension of the property tax rate, verify that the rate increased or extended by the jurisdiction does not exceed the maximum rate authorized by this section.

(2) The jurisdiction shall provide the county auditor, in the form and manner and at the time prescribed by the county auditor, with any documentation that is necessary to assist the county auditor in making the verification required by paragraph (1).

(3) The county auditor shall reject the increase or extension of any property tax rate that exceeds the maximum rate authorized by paragraph (4) of subdivision (a) or by subdivision (c).

(4) The jurisdiction shall reimburse the county auditor for the actual and reasonable costs incurred by the county to administer this subdivision.

(f) This section shall be deemed to be a limit on the maximum property tax rate pursuant to Section 20 of Article XIII of the California Constitution.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for reimbursement to a local agency in the form of additional revenues that are sufficient in amount to fund the new duties established by this act, within the meaning of Section 17556 of the Government Code.